

ELECTIONS/ MOST-IMMEDIATE

**GOVERNMENT OF TELANGANA
MUNICIPAL ADMINISTRATION DEPARTMENT**

**O/O THE ELECTION AUTHORITY AND
COMMISSIONER & DIRECTOR OF
MUNICIPAL ADMINISTRATION,
TELANGANA, HYDERABAD.**

C I R C U L A R

No.452/2014/H.I

Dt.10.07.2014

Sub:- Mpl Admn- Administration in Municipal Councils- Transaction of business by the Municipal Council- Constitution of Committees under Section 43 and 74 of APM Act, 1965 - Action to be taken by the Municipal Councils- Reg.

Ref: G.O.Ms.No.1077 HMA & UD Dept. Dt.19.9.1981.

The attention of all the Chairpersons and Municipal Commissioners of 53 Municipalities/ Nagarpanchayats in the State is invited to the provisions of Section 43 and 74 of the APM Act, 1965 and also to AP Municipalities (Election to Members of the Committee) Rules, 1981 issued in the reference cited (copy enclosed for ready reference).

2. As per the provisions of Section 43 of APM Act, 1965, the authority to contract and contractual power of persons appointed by Government has to be exercised by a Committee consisting of the Chairperson, Commissioner and not less than three but not more than seven members, in this behalf by the Council.
3. Further, as per the provisions of Section 74 of APM Act, 1965, appointment to posts of officers and employees of Council sanctioned under Section 73 of APM Act, 1965 shall be made from a panel prepared by a Committee consisting of the Chairperson, Commissioner and not less than three but not more than seven members, in this behalf by the Council.
4. As per Rule 3 (1) (a) of the AP Municipalities (Election of Members of the Committee) Rules, 1981, the Chairperson shall convene a Special meeting of the Council for the purpose of election of members of the Committee within 15 days from the date of election of Vice-Chairperson, by giving not less than seven clear days notice to all the members.
5. In view of the above provisions of the APM Act, 1965 and also read with the rules issued in the reference cited, the Chairpersons and Municipal Commissioners of

53 Municipalities/ Nagarpanchayats are requested to take immediate necessary action for formation of Contract Committee and Panel Committee and furnish the particulars to this office at the earliest after the formation of above Committees.

6. The Municipal Commissioners of the (53) Municipalities and Nagarpanchayats are directed to guide the Chairpersons in the matter and ensure that the formation of above Committees are made at the earliest so as to run the administration in the Municipal Councils.

7. The Regional Director cum Appellate Commissioners of Municipal Administration of Hyderabad and Warangal are requested to review this item of work during their monthly review meetings and also whenever they inspect the Municipalities/Nagarpanchayats in their jurisdiction.

Sd/- B.Janardhan Reddy
Commissioner & Director

To
The Municipal Chairpersons of (53) Municipalities / Nagarpanchayats.
The Municipal Commissioners of (53) Municipalities / Nagarpanchayats.
The Regional Directors cum Appellate Commissioners of Municipal Administration of
Hyderabad and Warangal.


for Commissioner & Director
10.7.14

his landlord. If in case there are any such rival claims, then the tenant has to resort to the provisions under the Rent Control Act and deposit the rents into Court after obtaining necessary permission from the Rent Controller.¹

43. Authority to contract and contractual power of persons appointed by Government :—(1) The power of making, on behalf of the council, any contract where of the value or amount does not exceed the monetary limits specified in column (2) of the Table below, shall be exercised by the authority specified in column (3) thereof.

²**[TABLE**

Municipality	Monetary limits /	Authority
Second or third grade Municipality	(a) Not exceeding Rs.5,000/-	Commissioner
	(b) Exceeding Rs.5,000/- but not exceeding Rs.20,000/-	Committee consisting of the Chairperson, Commissioner and not less than three but not more than seven members, chosen in this behalf by the council
First Grade Municipality	(a) Not exceeding Rs.10,000/-	Commissioner
	(b) Exceeding Rs.10,000 but not exceeding Rs.50,000/-	Committee consisting the Chairperson, Commissioner and not less than three but not more than seven members, chosen in this behalf by the Council
Special or Selection Grade Municipality	(a) Not exceeding Rs.25,000/-	Commissioner
	(b) Exceeding Rs.25,000/- but not exceeding Rs.75,000/-	Committee consisting of the Chairman, Commissioner and not less than three but not more than seven members chosen in this behalf by the Council.

(2) The power of making every contract whereof the value or amount exceeds the monetary limits mentioned in sub-section (1) shall be exercised by the council concerned.)]

1. *E.R. Badiri Narayana v. K. Nagappa*, 1999 (2) ALD 501.

2. Subs. by Act 3 of 1994, w.e.f. 1-3-1994.

(3) Notwithstanding anything in the foregoing sub-sections, any person appointed by the Government to carry any work into execution on behalf of a council may, subject to such control as the Government may prescribe, make such contracts as are necessary for the purpose of carrying such work into execution to the extent of the sum provided for such work; and the council shall pay to the person so appointed such sums as may be required for the said purpose to the extent aforesaid.

[x x x x]

44. Rules regarding the conditions on which contracts may be made :—The power conferred by Section 43 to make or sanction contracts shall be subject to such rules as may be prescribed in regard to the conditions on which, and the mode in which contracts may be made or sanctioned by or on behalf of the council.

COMMENTARY

Rules for invitation and disposal of tenders prohibiting acceptance of tenders whose rates are less than 15% of the estimated cost - Valid :—

Condition imposed in the impugned memo and G.O is to the effect that if any rates in any tender are less than 15% of the estimated rates, the same should not be accepted. This condition is in no way inconsistent with Rule 6. The impugned memo and G.O. are intended to maintain the quality of works. In the absence of such condition, it is not difficult to envisage the contractors indulging in financial adventurism by quoting abnormally lower rates. If such tenders are to be accepted, public interest is very likely to suffer, in that the contractors may either, desert the work half way through or execute work of a very poor quality. Merely because Officers are there to supervise the quality of work, it cannot be inferred that whatever be the rates quoted by a person, the work executed by him would be of the required quality. Cases are not uncommon when contractors in collusion with corrupt officials succeed in carrying out works of sub-standard quality. With a view to avoiding such unpleasant situations, the Government issued the impugned memo and the G.O.¹

45. Mode of executing contracts :—(1) Every contract made by or on behalf of, a council whereof the value or amount exceeds ²[one thousand rupees]

1. *J. Subrahmanyam and another v. Government of A.P. and another*, 1996 (1) ALD 177; *J. Subrahmanyam v. Government of AP.*, 1988 (1) ALT 646.

2. Subs. by Act 3 of 1994, w.e.f. 1-3-1994.

personnel from various sources to man that category of Municipal Secretaries and all that it did now by way of amendment is that the Municipal Secretaries shall not be drawn after 19th May, 1968, from the source of Divisional Panchayat Officers. The Divisional Panchayat Officers have no vested right to claim protection as Municipal Secretaries or Commissioners. The other sources from which the Municipal Secretaries are drawn belong to different classes or categories and the classification is made on a reasonable basis having regard to the interests of the Municipal Administration.¹

73. Other officers and employees of council :—(1) All proposals for fixing or altering the number, designations and grades of officers other than those referred to in Section 72 and employees of the council and the salaries, fees and allowances payable to them shall be placed before the council by the Commissioner for consideration and sanction of the council.

(2) The council may, after consideration of such proposals, sanction them with or without modification;

Provided that no proposal adversely affecting any municipal officer or employee who has been in the permanent service of the municipality for more than five years and is drawing a salary of not less than fifty rupees per mensem shall be considered except at a special meeting convened for the purpose and no such proposal shall be given effect to unless assented to, by atleast one-half of the members then on the council.

(3) Notwithstanding any thing in sub-sections (1) and (2), the Government shall have power to sanction and fix or alter the number, designations and grades of, and the salaries, fees and allowances payable to, the officers, and employees of any council or any class of such officers and employees and, it shall not be open to the council to vary the number, designations, grades, salaries, fees or allowances as so fixed or altered except with the previous sanction of the Government.

[74. Appointment to posts of officers and employees of council sanctioned under Section 73 :—Subject to any rules including the rule for the representation of Scheduled Castes, Scheduled Tribes and the socially and educationally backward classes of citizens which the Government may make in this behalf, and notwithstanding anything in the Andhra Pradesh (Andhra Area) Public Health Act, 1939 or any other law similar thereto

1. *P. Narasinga Rao v. State of AP.*, 1972 (1) An.WR 2 (NRC).

2. Subs. by Act 15 of 1996, w.e.f. 12-2-1996.

for the time being in force, appointment to posts of officers and employees sanctioned under Section 73, shall be made by the chair-person:

Provided that an appointment to the post of a Headmaster or Headmistress of a High School maintained by the council shall be made from a panel prepared by a committee consisting of the Chairperson, the Commissioner, the District Educational Officer having jurisdiction and not less than three but not more than seven members chosen in this behalf by the council:

Provided further that appointment ¹[to all the other posts except all categories of posts of teachers the pay or maximum pay] of which exceeds rupees one hundred shall be made from a panel prepared by a committee consisting of the Chairperson, the Commissioner and not less than three but not more than seven members chosen in this behalf by the council.]

²[Provided also that appointment to all categories of posts of teachers shall be made as per the procedure prescribed by the Government from time to time.]

COMMENTARY

Handing over of private schools to Municipality declared illegal - Teachers in private schools continued to be the employees under the private management :—

The G.O. does not expressly or by necessary implication determine the services of the teachers with the private managements. Merely because the schools are transferred it would not necessarily mean that such contracts came to an end. The Government cannot determine the contract of service entered into between the management and the teachers. There is no provision of law or any authority which would entitle a third party even if it be the Government to terminate the contract to which it was not a party. There was neither any contract of service individually or collectively between the teachers and the Municipality, nor any implied contract of service which can be inferred between the Municipality and the teachers. The Government also cannot make a contract of service for the Municipality, nor they can put an end to the contract of service between the private management and the teachers. The petitioners' services were placed along with the schools at the disposal of the Municipality by the Government on the basis of consent letters. When the consent letters were found by the Court

1. Subs. by Act 10 of 1999, w.e.f. 6-2-1999.

2. Proviso added by Act 10 of 1999, w.e.f. 6-2-1999.

to be illegal, the schools together with the teachers must be handed over back to the private managements to whom they belong. These teachers therefore, did not cease to be teachers in the employment of private managements. Nor they could be said to have been appointed or absorbed in the Municipal service by the Municipality.¹

75. Power of Government to transfer officers and employees of municipalities :—(1) Notwithstanding anything in this or any other enactment for the time being in force, the Government shall have power to transfer any officer or employee of a municipality to the service of any other municipality or of any other local authority.

(2) The Government shall have power to issue such general or special directions as they may think necessary for the purpose of giving due effect to transfers made under sub-section (1).

COMMENTARY

Scope :—

Government is competent to transfer sanitary inspectors from one place to another place.² A resolution of the executive committee converting the services of a person from a secretarial assistant to that of B.Ed. assistant with retrospective effect is outside the competence of the committee. The council is the only competent authority to change the resignations of officers of the Municipality.³

76. Power of council to frame regulations :—(1) Subject to the provisions of this Act and the rules which the Government may make in this behalf, the council may frame regulations in respect of officers and employees of the municipality appointed under Section 74—

- (a) fixing the amount and nature of security to be furnished;
- (b) prescribing educational or other qualifications;
- (c) regulating the grant of leave, leave allowances, acting allowances and travelling allowances;
- (d) regulating the grant of pensions and gratuities;

1. *N. Sankaranarayana v. Municipal Council, Tenali Municipality*, 1973 (1) APLJ 178 (FB).
2. *Narasimha Reddy v. Mohammed Bin Syeed*, 1972 (2) An.WR 128.
3. *G. Sreenivasamurthi v. State of AP.*, 1971 (2) An.WR 396.

part No..... S.No..... and my name is at page no.of the
Electoral Roll of.....Municipality.

* I have lost my identity card supplied to me.

** I enclose my defaced/mutilated identity card.

I enclose two passport size photographs.

I also enclose the receipt in proof of payment of fee of rupees ten.

I request you to kindly issue a duplicate identity card.

Station:

Yours faithfully,

Date:

()

*Strike off one of the alternatives which is not required.

Acknowledgment

Received application form from on for issue of duplicate
identity card.

Signature of Election Officer
of Authorised Person.

ANDHRA PRADESH MUNICIPALITIES (ELECTION OF MEMBERS OF THE COMMITTEES) RULES, 1981

*[G.O.Ms.No. 1077, Housing Municipal Administration and Urban Development, (M.A.),
19th September, 1981]*

In exercise of the powers conferred by sub-section (1) of Section 326 read with sub-section (1) of Section 43 and Section 74 of the Andhra Pradesh Municipalities Act, 1965 (Andhra Pradesh Act 6 of 1965) and in supersession of the Andhra Pradesh Municipalities (Regulation of Committees) Rules, 1971 issued in G.O.Ms.No.15, M.A., dt. the 7th January, 1972, the Governor of Andhra Pradesh hereby makes the following rules for the election of members of the Committee contemplated under sub-section (1) of Section 43 and Section 74 of the Andhra Pradesh Municipalities Act, 1965.

1. These rules may be called "The Andhra Pradesh Municipalities Election of Members of the Committees (under Sections 43 and 74 of the Andhra Pradesh Municipalities Act, 1965) Rules, 1981".

2. The Municipal Council shall fix the strength of each Committee in accordance with the provisions of Section 43 or as the case may be, Section 74 of the Andhra Pradesh Municipalities Act, 1965 (hereinafter called the Act) by a resolution before choosing the members of the Committee.

3. (1) The Chairperson shall convene a special meeting of the Council for the purpose of election of members of the Committees by ¹[giving not less than 7 clear days notice to all the members],

- (a) within 15 days from the date of election of Vice-Chairperson, if the election is after ordinary elections to the Municipal Council; and
- (b) before the expiry of the term of the existing Committees if the election is for subsequent years, so that the newly elected members of the Committees may come into office on the day of expiry of the term of the existing Committees;

Provided that the election of members of the Committees after the ordinary elections in 1981 shall be held within 15 days from the date of issue of these rules.

(2) The meeting convened for the election shall be presided over by the Chairperson and in his absence by the Vice-Chairperson and if both the Chairperson and Vice-Chairperson are absent by a member not intending to stand as a candidate for election as a Member at the election and chosen by the members present who shall hereinafter be called President of the Meeting.

4. (1) No business shall be transacted at the meeting convened under Rule 3 unless there be present at least one-half of the total number of members of the Council including the ex-officio members.

(2) If within half-an-hour after the time appointed for the meeting no quorum is present, the meeting stands adjourned, unless all the members present agree to wait longer.

²[(3) Save as provided in sub-rule (2) a meeting convened for the purpose of election of members of the Committees shall not, for any reasons, be adjourned.]

5. The President of the meeting shall announce the number of the vacancies on each Committee which should be filled up from among the elected members as decided by the Council.

1. Ins. by G.O. Ms. No.617, dated 30-9-1983.

2. Added by *Ibid*.

6. (1) Every candidate for election shall be proposed by one member and seconded by another.

(2) Any member can propose the names of as many elected members as there are vacancies in a Committee.

(3) The names of all the candidates who have been validly proposed for each of the Committee shall be read out by the President of the meeting.

(4) A candidate may withdraw at any stage before the names of the contestants are read out by the president of the meeting.

7. (1) If the number of candidates whose names are so read out is equal to the number of members to be on the committee, the President of the meeting shall declare all such candidates to have been duly elected.

(2) If the number of such candidates is less than the members to be on the Committee, the President of the meeting shall declare all such candidates to have been duly elected and shall either call for fresh nominations or adjourn the election to fill up the remaining vacancy or vacancies.

(3) If the number of candidates proposed exceeds the number of members to be on the Committee, an election shall be held by secret ballot and votes taken of the members present at the meeting.

8. (1) The President of the meeting shall be provided with a ballot box by the Commissioner of Municipality. Such ballot box shall be so constructed that voting paper can be inserted therein but cannot be withdrawn therefrom without the box being unlocked.

(2) The President of the meeting shall immediately before votes are taken show the empty ballot box to such of the members as may be present so that they may see that it is empty and shall then lock it up and place his seal upon it in such a manner as to prevent its being opened without breaking such seal.

(3) Where an election has to be conducted under Rule 8 a symbol shall be assigned to each candidate contesting for each committee by the President of the Meeting in consultation with the candidates. Serial numbers shall also be assigned to candidates contesting for each Committee with reference to the alphabetical order of their surnames in Telugu. Where there is no surname, the proper name, shall be taken into consideration and when initials only precede the proper name, the initials have to be ignored. The President of the meeting shall then announce to the members the symbol and the serial number assigned to each candidate.

Note :—The symbol shall conform to the instructions issued by the Election Authority from time to time.

(4) Every member wishing to vote shall be supplied with one type written or legibly written ballot paper in respect of election to each Committee for which election is being held, arranging the names of the contesting candidates for each committee in Telugu in the following form;

Committee under Section 43 of the Andhra Pradesh Municipalities Act, 1965.

Committee under the first proviso to Section 74 of the Andhra Pradesh Municipalities Act, 1965.

Committee under the second proviso to Section 74 of the Andhra Pradesh Municipalities Act, 1965.

Sl.No.	Name	Symbol
(1)		
(2)		

The President of the meeting shall affix his signature on the back of each ballot paper before issuing to the members.

After supply of the ballot paper/ballot papers, the voter shall proceed to the voting compartment and record his choice by marking on each ballot paper against the name or the names of the candidate or candidates for whom he wishes to vote. He shall then fold the ballot paper/ballot papers in such a way as to maintain secrecy and insert the folded ballot paper/ballot papers in to the ballot box placed in full view of the President of the meeting and other members. Every member while exercising his franchise at the time of election shall have the right to cast his vote once to such number of candidates as are to be filed in order to elect the requisite number of candidates for each of the Committees from among the contesting candidates.

(5) No member shall be allowed to enter the compartment when another member is inside the compartment.

(6) (a) If owing to blindness or other physical infirmity, a member is unable to recognise the symbols on the ballot paper or to make a mark thereon, the President of the meeting shall record the vote on the ballot paper in accordance with the wishes of the members, fold it so as to conceal the vote and insert into the ballot box.

- (b) While acting under sub-rule (6)(a), the President of the meeting shall observe as much of secrecy as is feasible and shall keep a brief record of each such instance but shall not indicate therein the manner in which any vote has been given.

(7) The President of the meeting and the members who have been duly proposed as candidates shall have the right to vote

(8) Immediately after the voting is over, the President of the meeting shall, in the presence of the members present, open the ballot box, take out the ballot papers therefrom, count them and record the number of votes polled in respect of each candidate in a statement. A ballot paper shall be rejected, if

- (a) it bears the signature of the voter or contains any word, sign or any visible representation by which he can be identified; or
- (b) marks are placed thereon against more number of candidates than the requisite vacancies to be filled up; or
- (c) the mark is so placed thereon as to make it doubtful for which one or two or more candidates, the vote was intended to be given; or
- (d) no mark is placed thereon; or
- (e) it does not bear the signature of the President of the meeting prescribed in sub-rule (4).

(9) The President of the meeting shall then declare to have been duly elected as many of the candidates as there are vacancies of the members for the Committee/Committees, who have received the largest number of votes. If there be an equality of votes between any two or more candidates and the addition of one vote to any or more of such candidates will entitle him or them to be declared duly elected, the President of the meeting shall decide by drawing lots in respect of such candidates in the presence of the members present at the meeting. The candidate or candidates whose name or names is or are first drawn shall be deemed to have secured such additional votes.

9. Immediately after the meeting, the President of the meeting shall prepare a record of the proceedings at the meeting and sign it, attesting it with his initials every correction therein, and also permit any member present at the meeting to affix, his signature to such record, if he expresses his desire to do so and publish on the Notice Board of Municipal Office a notice signed by him stating the names of the persons elected as Members of each of the Committee and send a copy of such resolution to the Director of Municipal Administration and the Government.

10. (1) The President of the meeting shall then make up into separate packets the voting papers relating to each Committee whether counted or rejected, seal each packet and note thereon the description and its contents, the election to which it relates and the date thereof.

(2) These packets shall not be opened or the contents inspected or produced except under the orders of Director of Municipal Administration or the competent Court.

(3) The packets shall be retained in safe custody in the Municipal office for a period of three months and shall thereafter, unless otherwise directed by the Director of Municipal Administration or the competent Court, be destroyed.

11. A casual vacancy to a Member of the Committee shall be filled in by election at any meeting of the council in accordance with these rules and the term of such member shall expire with the term of Committee.

12. The term of the members of the Committees shall be one year from the date of election of such part of the year by which the period of Municipal Council expires.

A.P. MUNICIPALITIES (REGULATION OF RECEIPTS AND EXPENDITURE) RULES, 1968

[G.O. Ms. No.686, Municipal Administration, dated 30th July 1968.]

In exercise of the powers conferred by sub-section (1) of Section 326 of the Andhra Pradesh Municipalities Act, 1965 (Act 6 of 1965) the Governor of Andhra Pradesh hereby makes the following rules relating to the receipts and expenditure of Municipal Councils, the same having been published at pages 19-35 of Rules Supplement to Part-I of the Andhra Pradesh Gazette, dated 16th February, 1967 as required under clauses (a) and (b) of sub-section (1) of Section 327 of the said Act.

RULES

1. (1) These rules may be called the Andhra Pradesh Municipalities (Regulation of Receipts and Expenditure) Rules, 1968.

(2) In these rules 'Act' means the Andhra Pradesh Municipalities Act, 1965.